

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**ANITA L. HARRIS,**

Plaintiff,

v.

**COMMISSIONER SOCIAL SECURITY  
ADMINISTRATION,**

Defendant.

Case No. 3:12-cv-00395-JE

**ORDER ADOPTING FINDINGS AND  
RECOMMENDATION**

**SIMON, District Judge.**

Magistrate Judge John Jelderks issued findings and recommendation in the above-captioned case on March 6, 2013. Dkt. 17. Judge Jelderks recommended that the decision of the Commissioner be AFFIRMED and the case dismissed with prejudice. Plaintiff timely filed objections. Dkt. 19. Defendant responded to those objections. Dkt. 21.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court

shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report[.]”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (the court must review *de novo* magistrate’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate’s recommendations for “clear error on the face of the record.”

The Court has reviewed *de novo* those portions of Judge Jelderks’ findings and recommendation to which Plaintiff has objected, as well as Plaintiff’s objections, Defendants’ response, and the original briefing in the case. The Court agrees with Judge Jelderks’ reasoning in finding that the ALJ’s decision is based on proper legal standards and that the findings are supported by substantial evidence in the record as a whole.

For those portions of Judge Jelderks’ findings and recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

### **CONCLUSION**

The Court hereby ADOPTS Judge Jelderk's findings and recommendation. Dkt. 17. The decision of the Commissioner is AFFIRMED and this case is dismissed with prejudice.

IT IS SO ORDERED.

Dated this 30th day of April, 2013.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge